

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Civil Case No.: 5:22-cv-00240-BO-RJ

TAYLOR PHILO and SAID ISLAS, Each)
individually and on Behalf of All Others)
Similarly Situated,)

Plaintiffs,)

v.)

DEGLER ENTERPRISE, LLC; HILLARY)
DEGLER; and CHRISTOPHER DEGLER,)

Defendants.)

JOINT MOTION TO OPEN CASE FOR THE
LIMITED PURPOSE TO APPROVE
SETTLEMENT AGREEMENT

NOW COME Plaintiffs Taylor Philo and Said Islas, (“Named Plaintiffs”), on their own behalf and on behalf of all individuals who have filed consents to join the case (collectively the “Plaintiffs”), by and through their counsel, and Defendants Degler Enterprise, LLC, Hillary Degler, and Christopher Degler (“Defendants”), by and through their counsel, and jointly petition this Court to open the case for the limited purpose of entering an Order approving their settlement of opt-in Plaintiff Jacob Hall’s claims and dismissing this action with prejudice. A copy of the Settlement Agreement and Release between opt-in Plaintiff Jacob Hall and Defendants (the “Settlement Agreement”) is attached hereto as Exhibit A.

In support of this motion, Plaintiffs and Defendants (collectively the “Parties”) state as follows:

1. On June 15, 2022, Named Plaintiffs filed a complaint in this putative collective action, asserting claims under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.* [D.E. #1].

2. On September 30, 2022, Jacob Hall (“Hall”) filed a Consent to Join Collective Action. [D.E. #16].

3. On October 7, 2022, Plaintiffs filed their Unopposed Motion for Conditional Certification, For Approval and Distribution of Notice and For Disclosure of Contact Information [D.E. #17], and Brief in Support of said Motion [D.E. #18].

4. On December 29, 2022, the Court entered an Order granting Plaintiffs’ Unopposed Motion for Conditional Certification, For Approval and Distribution of Notice and For Disclosure of Contact Information, which made March 6, 2023, the deadline for collective members to submit Consents to Join this lawsuit as opt-in plaintiffs. [D.E. #24].

5. Defendants timely provided Plaintiffs’ counsel with contact information for putative collective action members, and Court-approved Notice was sent to potential class members.

6. Thirteen¹ individuals thereafter filed Consents to Join this lawsuit [D.E. ## 25-27, 30-32, 36-37, and 39].

7. In an effort to preserve time, expenses, and judicial resources, the Parties submitted their Joint Motion Requesting to Participate in a Court-hosted Settlement Conference and a Stay of Litigation to Permit the Parties to Participate in a Court-hosted Settlement Conference prior to engaging in formal discovery and protracted litigation, which the Court granted on May 20, 2023. [D.E. #40, Docket Text Order on May 22, 2023].

8. On May 23, 2023, the Court set the court-hosted settlement conference for Monday, June 26, 2023. [D.E. #41].

¹ Defendants’ counsel agreed to the late-filing of James F. Lowery’s and Vincent Thomas’ Consent to Join Lawsuit.

9. In anticipation of the court-hosted settlement conference, Defendants produced time records, pay records, and a spreadsheet with damage calculations from June 15, 2019 through June 15, 2022 for the thirteen individuals that filed Consent to Join this lawsuit *after* December 29, 2022. The Parties inadvertently overlooked claims related to Hall, likely due in part to his Consent to Join being filed before Plaintiffs' Motion for Collective Action.

10. The Parties, through their respective counsel, engaged in lengthy settlement negotiations and the exchange of pertinent information and documentation culminating in an agreement to settle this case regarding Plaintiffs' claims—except for Hall who was inadvertently omitted—subject to the approval of the Court.

11. On September 1, 2023, the Parties filed a Joint Motion to Approve Settlement Agreement [D.E. #50, #50-1] and a Memorandum in Support of Joint Motion to Approve Settlement Agreements [D.E. #51]. At the time of these filings, the Parties intended to include all opt-in Plaintiffs, including Hall, but inadvertently omitted him from the Joint Motion filed on September 1, 2023.

12. On September 26, 2023, Plaintiffs filed a Notice Regarding Settlement, which stated that Hall filed a timely Consent to Join the Lawsuit but was inadvertently omitted from the Joint Motion to Approve Settlement Agreement filed on September 1, 2023 [D.E. #16].

13. On September 29, 2023, the Court entered an Order approving the Joint Motion to Approve Settlement Agreement filed on September 26, 2023 [D.E. #54].

14. Defendants have produced to Plaintiffs pay records and a spreadsheet with damage calculations for Hall in addition to the other named and opt-in Plaintiffs.

15. The Parties, through their respective counsel, engaged in lengthy settlement negotiations and the exchange of pertinent information and documentation culminating in an

agreement to settle this case regarding Plaintiffs' claims, including Hall's, subject to the approval of the Court.

16. The Parties agree that Hall, an opt-in Plaintiff, should have been included in the Joint Motion to Approve Settlement Agreement filed on September 1, 2023.

17. The Parties now seek entry of an Order approving the settlement agreement between Hall and Defendants. [*See* Exhibit A].

18. The Settlement Agreement sets forth in detail the terms of settlement agreed upon by Plaintiffs.

19. The Parties incorporate by reference their Memorandum in Support of Joint Motion to Approve Settlements previously filed and offered in support of approval [D.E. #51]. The settlement reached by the parties represents a fair, just and reasonable resolution of all claims alleged by Plaintiffs for unpaid wages, liquidated damages, and attorneys' fees.

20. The settlement was negotiated at arm's length, by experienced counsel, in resolution of bona fide disputes between their clients with respect to liability and the amount allegedly due under the FLSA. By entering into the settlement, the Parties conserved substantial time and expense that would have been required had the case been further litigated and/or gone to trial; and by settling, Hall is assured a reasonable recovery on their claims, thereby avoiding the uncertainties associated with further litigation.

21. The amount to be paid for attorneys' fees and costs was negotiated separately from the amount of the settlement paid to Hall for unpaid wages. Accordingly, Hall will not be responsible for paying attorneys' fees and costs out of the settlement payments he receives.

22. Conditioned upon Hall's receipt of the payments described in Section 3 of the respective Settlement Agreements, Hall acknowledges that he will have received all wages and benefits to which he is entitled as it relates to this action.

23. If the Settlement Agreement is approved, there will be no remaining matters in dispute between the Parties with regard to the claims raised in this lawsuit, and this case should be dismissed with prejudice as to Hall's claims.

WHEREFORE, the Parties respectfully request that the Court grant their joint motion, enter an order approving the Settlement Agreement, and dismiss this action with prejudice.

Respectfully submitted, this 25th of October, 2023.

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